
SENATE BILL 5044

State of Washington

60th Legislature

2007 Regular Session

By Senators Weinstein, Oemig, Franklin, Rockefeller, Fraser, Brown, Kauffman, Rasmussen, Keiser, Regala, Jacobsen, McAuliffe and Kohl-Welles

Read first time 01/09/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to the real property statute of repose; and
2 amending RCW 4.16.310.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.16.310 and 2002 c 323 s 9 are each amended to read
5 as follows:

6 (1)(a) All claims or causes of action as set forth in RCW 4.16.300
7 shall accrue, and the applicable statute of limitation shall begin to
8 run only during the period within (~~six~~) ten years after substantial
9 completion of construction, or during the period within (~~six~~) ten
10 years after the termination of the services enumerated in RCW 4.16.300,
11 whichever is later. The phrase "substantial completion of
12 construction" shall mean the state of completion reached when an
13 improvement upon real property may be used or occupied for its intended
14 use. Any cause of action which has not accrued within (~~six~~) ten
15 years after such substantial completion of construction, or within
16 (~~six~~) ten years after such termination of services, whichever is
17 later, shall be barred(~~:-PROVIDED, That~~). This limitation shall not
18 be asserted as a defense by any owner, tenant or other person in
19 possession and control of the improvement at the time such cause of

1 action accrues. The limitations prescribed in this section apply to
2 all claims or causes of action as set forth in RCW 4.16.300 brought in
3 the name or for the benefit of the state which are made or commenced
4 after (~~June 11, 1986~~) the effective date of this section.

5 (b) If a written notice is filed under RCW 64.50.020 within the
6 time prescribed for the filing of an action under this chapter, the
7 period of time during which the filing of an action is barred under RCW
8 64.50.020 plus sixty days shall not be a part of the period limited for
9 the commencement of an action, nor for the application of this section.

10 (2) This section does not apply to a cause of action for a
11 structural defect in the construction of a residence.

12 (3)(a) For the purposes of this section, "structural defect" means
13 any defect in the load-bearing portions of a residence that adversely
14 affects its load-bearing function to the extent that the residence
15 becomes or is in serious danger of becoming unsafe, unsanitary, or
16 otherwise is not reasonably safely habitable. "Structural defect" also
17 includes damage due to subsidence, expansion, or lateral movement of
18 soil that has been disturbed or relocated by the builder.

19 (b) "Structural defect" does not include damage to a residence
20 caused by movement of the soil:

21 (i) Resulting from a flood or earthquake; or

22 (ii) For which compensation has been provided.

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